

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-CR-22

SHENA ROBINSON,

Defendant.

ORDER GRANTING REQUEST FOR EVIDENTIARY HEARING

On February 7, 2008, the defendant filed a motion to suppress statements on the basis that she was in custody and subject to interrogation when she gave the relevant statements but was not provided her Miranda warnings. (Docket No. 13.) Additionally, she argues her statements were not voluntarily made and that the statements are inadmissible pursuant to Federal Rule of Evidence 408. (Docket No. 13.) In this motion, she alleged that an evidentiary hearing is necessary to determine the following facts:

1. Whether Ms. Robinson was subjected to custodial interrogation for the purposes of *Miranda v. Arizona*, 384 U.S. 436, 444 (1966);
2. Whether the statement was voluntarily made; and
3. Whether the statement was elicited under the guise or context of civil settlement negotiations.

(Docket No. 13 at 2.)

The government has not responded to the defendant's request for an evidentiary hearing. Custody and voluntariness are questions that must be evaluated by examining the totality of circumstances. See respectively, United States v. Graven, 129 F.3d 974, 977 (7th Cir. 1997);

Watson v. Detella, 122 F.3d 450, 453 (7th Cir. 1997). Thus, under the circumstances presented in this case, the court finds it appropriate to conduct an evidentiary hearing to resolve the defendant's motion to suppress.

IT IS THEREFORE ORDERED that the defendant's request for an evidentiary hearing is **granted**. A hearing shall commence on **February 27, 2008 at 1:30 PM** in Courtroom 254 of the United States Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin. The court has scheduled two hours of court time for this hearing. Upon receipt of this order, if either party believes that additional court time is necessary, the party shall promptly notify the court of with an estimate of the in-court time necessary to resolve Lindsey's motion.

Dated at Milwaukee, Wisconsin this 22nd day of February 2008.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge